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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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No. 1:06-cv-02447-BSJ

ELITE PHYSICIAN SERVICES, LLC,

Plaintiff,

-against-

CITICORP PAYMENT SERVICES, INC.,

Defendant.

**NOTICE OF MOTION  
AND MOTION FOR  
VOLUNTARY  
DISMISSAL WITHOUT  
PREJUDICE PURSUANT  
TO FED. R. CIV. P.  
41(a)(2)**

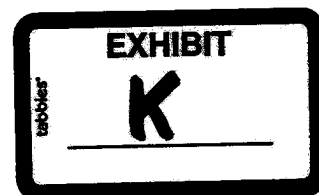
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TO: DEFENDANT CITICORP PAYMENT SERVICES, INC.  
AND ITS ATTORNEYS OF RECORD

PLEASE TAKE NOTICE THAT plaintiff Elite Physician Services LLC will and does hereby move this Court, pursuant to Fed. R. Civ. P. 41(a)(2), to dismiss this action without prejudice for the reasons set forth in the accompanying Memorandum of Law.

This motion is based on this Notice of Motion and Motion; the Memorandum of Law filed herewith; the accompanying Affirmation of Kevin B. Dressler dated October 20, 2006, Affirmation of Robert F. Parsley dated October 24, 2006, and Affirmation of Philip R. Schatz dated October 24, 2006, plus exhibits thereto; the pleadings and papers on file herein; and such other and further matters as may be presented to the Court at the time of the hearing.


PLEASE TAKE FURTHER NOTICE THAT, pursuant to Rule 6.1(b) of the Local Rules of the United States District Court for the Southern District of New York, any opposing



affidavits or memoranda shall be served within ten business days after service of the moving papers herein.

Dated: New York, New York  
October 25, 2006

**WROBEL & SCHATZ LLP**

By:   
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